

ASSEMBLY BILL

No. 249

**Introduced by Assembly Members Gomez, Cristina Garcia, Reyes,
and Santiago**

January 30, 2017

An act to amend Section 25188, 25189, and 25189.2 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 249, as introduced, Gomez. Hazardous waste: civil penalties.

The Hazardous Waste Control Law regulates the use and disposal of hazardous materials. Existing law permits the Department of Toxic Substances Control or an agency authorized to implement and enforce certain laws relating to hazardous materials, known as a unified program agency, to enforce the Hazardous Waste Control Law. Existing law authorizes the department or a unified program agency to issue an order that requires a violation to be corrected and imposes an administrative penalty when there is a violation of the hazardous waste control laws, laws regulating hazardous substances, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those laws. Under existing law, a person who does not comply with the order is subject to a civil penalty of not more than \$25,000 for each day of noncompliance. In lieu of an administrative penalty, existing law makes any person who intentionally or negligently makes a false statement or representation for purposes of compliance with the hazardous waste control laws, violates a provision of the hazardous waste control laws, disposes or causes the disposal of a hazardous waste at an unauthorized site, or treats or stores a hazardous waste at an unauthorized site liable for a civil penalty not to exceed \$25,000, as specified.

This bill would increase these administrative and civil penalties to \$37,500 and would make nonsubstantive changes in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25188 of the Health and Safety Code is
2 amended to read:

3 25188. Any person subject to ~~a schedule for compliance an~~
4 ~~order~~ issued pursuant to Section 25187 who does not comply with
5 ~~that schedule order~~ shall be subject to a civil penalty of not more
6 ~~than twenty-five thousand dollars (\$25,000)~~ *thirty-seven thousand*
7 *five hundred dollars (\$37,500)* for each day of noncompliance.

8 SEC. 2. Section 25189 of the Health and Safety Code is
9 amended to read:

10 25189. (a) A person who intentionally or negligently makes
11 a false statement or representation in an application, label, manifest,
12 record, report, permit, or other document filed, maintained, or used
13 for purposes of compliance with this chapter, shall be liable for a
14 civil penalty not to exceed ~~twenty-five thousand dollars (\$25,000)~~
15 *thirty-seven thousand five hundred dollars (\$37,500)* for each
16 separate violation or, for continuing violations, for each day that
17 violation continues.

18 (b) Except as provided in subdivision (c), (d), or (e), a person
19 who intentionally or negligently violates a provision of this chapter
20 or a permit, rule, regulation, standard, or requirement issued or
21 promulgated pursuant to this chapter, shall be liable for a civil
22 penalty not to exceed ~~twenty-five thousand dollars (\$25,000)~~
23 *thirty-seven thousand five hundred dollars (\$37,500)* for each
24 violation of a separate provision or, for continuing violations, for
25 each day that violation continues.

26 (c) A person who intentionally disposes or causes the disposal
27 of a hazardous or extremely hazardous waste at a point that is not
28 authorized according to the provisions of this chapter shall be
29 subject to a civil penalty of not less than one thousand dollars
30 ~~(\$1,000) or more than twenty-five thousand dollars (\$25,000)~~
31 *thirty-seven thousand five hundred dollars (\$37,500)* for each
32 violation and may be ordered to disclose the fact of this violation
33 or these violations to those persons as the court may direct. Each

1 day on which the deposit remains and the person has knowledge
2 ~~thereof of the deposit~~ is a separate additional violation, unless the
3 person immediately files a report of the deposit with the department
4 and is complying with an order concerning the deposit issued by
5 the department, a hearing officer, or a court of competent
6 jurisdiction for the cleanup.

7 (d) A person who negligently disposes or causes the disposal
8 of a hazardous or extremely hazardous waste at a point ~~which that~~
9 is not authorized according to the provisions of this chapter shall
10 be subject to a civil penalty of not more than ~~twenty-five thousand~~
11 ~~dollars (\$25,000)~~ *thirty-seven thousand five hundred dollars*
12 *(\$37,500)* for each violation and may be ordered to disclose the
13 fact of this violation or these violations to those persons as the
14 court may direct. Each day on which the deposit remains and the
15 person had knowledge ~~thereof of the deposit~~ is a separate additional
16 violation, unless the person immediately files a report of the deposit
17 with the department and is complying with an order concerning
18 the deposit issued by the department, a hearing officer, or a court
19 of competent jurisdiction for the cleanup.

20 (e) A person who intentionally or negligently treats or stores,
21 or causes the treatment or storage of, a hazardous waste at a point
22 that is not authorized according to ~~this chapter, chapter~~ shall be
23 liable for a civil penalty not to exceed ~~twenty-five thousand dollars~~
24 ~~(\$25,000)~~ *thirty-seven thousand five hundred dollars (\$37,500)*
25 for each separate violation or, for continuing violations, for each
26 day that the violation continues.

27 (f) Each civil penalty imposed for a separate violation pursuant
28 to this section shall be separate and in addition to any other civil
29 penalty imposed pursuant to this section or any other provision of
30 law.

31 (g) A person shall not be liable for a civil penalty imposed under
32 this section and for a civil penalty imposed under Section 25189.2
33 for the same act or failure to act.

34 SEC. 3. Section 25189.2 of the Health and Safety Code is
35 amended to read:

36 25189.2. (a) A person who makes a false statement or
37 representation in an application, label, manifest, record, report,
38 permit, or other document, filed, maintained, or used for purposes
39 of compliance with this chapter, is liable for a civil penalty not to
40 exceed ~~twenty-five thousand dollars (\$25,000)~~ *thirty-seven*

1 *thousand five hundred dollars (\$37,500)* for each separate violation
2 or, for continuing violations, for each day that the violation
3 continues.

4 (b) Except as provided in subdivision (c) or (d), a person who
5 violates a provision of this chapter or a permit, rule, regulation,
6 standard, or requirement issued or adopted pursuant to this chapter,
7 is liable for a civil penalty not to exceed ~~twenty-five thousand~~
8 ~~dollars (\$25,000)~~ *thirty-seven thousand five hundred dollars*
9 *(\$37,500)* for each violation of a separate provision or, for
10 continuing violations, for each day that the violation continues.

11 (c) A person who disposes, or causes the disposal of, a hazardous
12 or extremely hazardous waste at a point that is not authorized
13 according to the provisions of this chapter is liable for a civil
14 penalty of not more than ~~twenty-five thousand dollars (\$25,000)~~
15 *thirty-seven thousand five hundred dollars (\$37,500)* for each
16 violation and may be ordered to disclose the fact of this violation
17 or these violations to those persons as the court or, in the case of
18 an administrative action, a hearing officer, may direct. Each day
19 on which the deposit remains is a separate additional violation,
20 unless the person immediately files a report of the deposit with
21 the department and is complying with an order concerning the
22 deposit issued by the department, a hearing officer, or a court of
23 competent jurisdiction for the cleanup.

24 (d) A person who treats or stores, or causes the treatment or
25 storage of, a hazardous waste at a point that is not authorized
26 according to this chapter, shall be liable for a civil penalty not to
27 exceed ~~twenty-five thousand dollars (\$25,000)~~ *thirty-seven*
28 *thousand five hundred dollars (\$37,500)* for each separate violation
29 or, for continuing violations, for each day that the violation
30 continues.

31 (e) For purposes of subdivisions (c) and (d), a person who offers
32 hazardous waste to a transporter that is registered pursuant to
33 Section 25163 or to a storage, treatment, transfer, resource
34 recovery, or disposal facility that holds a valid hazardous waste
35 facilities permit or other grant of authorization from the department
36 that authorizes the facility to accept the waste being offered shall
37 not be considered to have caused disposal, treatment, or storage
38 of hazardous waste at an unauthorized point solely on the basis of
39 having offered that person's waste, provided the person has taken
40 reasonable steps to determine that the transporter is registered or

1 the facility is authorized by the department to accept the hazardous
2 waste being offered.

3 (f) A person shall not be liable for a civil penalty imposed under
4 this section and for a civil penalty imposed under Section 25189
5 for the same act or failure to act.

6 (g) Liability under this section may be imposed in a civil action
7 or liability may be imposed administratively pursuant to Section
8 25187.

O